S.B.CIVIL TRANSFER PETITION NO.8/2003

Hemant Kumar
vs.
Smt. Bhattu Devi and others.

DATE OF ORDER ::: 2.1.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. MS Purohit, for the petitioner.
Mr. N Singh for Mr.ML Garg, for the respondents.

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Heard learned counsel for the parties.

According to learned counsel for the petitioner, originally the suit was filed in the Court of Additional District Judge, Ratangarh because of the reason that the land in question was situated in Town Sri Doongargarh which was situated in District Churu and the Court having territorial jurisdiction over Sri Doongargarh was at Ratangarh. Because of re-organisation of the cities, Sri Doongargarh went into Bikaner District from Churu District. The distance from Sri Doongargarh to Bikaner is almost equal as of Ratangarh. It is also submitted that one revision petition arising out of the proceedings under Sections 145 and 146 Cr.P.C. was also transferred to Sessions Courts, Bikaner. According to the petitioner, the original case no.1/2000 which also should have been

transferred to the Court at Bikaner has not been transferred. It is also submitted that the petitioner is resident of Bikaner and is in service at Bikaner and there is no reason for asking him to attend the Court at Ratangarh inspite of the fact that the property is situated within the territorial jurisdiction of the District Court, Bikaner.

Learned counsel for the respondents pointed out that this Court on 16.1.2002 issued order and because of that order only, the case no.1/2000 has not been transferred to the Bikaner Court. It is also submitted that Ratangarh is convenient place for respondents to conduct the case.

Learned counsel for the petitioner pointed out that the case is pending before the Court at the stage of issues only.

I have considered the submissions of learned counsel for the parties and perused the facts of the case.

It is not in dispute that a revision petition arising out of the proceedings under Sections 145 and 146 Cr.P.C. Was transferred to the Court at Bikaner though that is in consonance to the administrative order passed by this Court dated 16.1.2002 but at the same time, it is relevant that the order dated 16.1.2002 is an order of general nature and in this case, the distinction has been pointed out by the petitioner for taking a different view. The distance from

Sri Doongargarh is not very much relevant because it is situated equidistant from Bikaner and from Ratangarh. The petitioner is in service at Bikaner and if the respondent can conduct the case at Ratangarh, they can also conduct the case at Bikaner without any inconvenience and mere word of mouth that Ratangarh is convenient to them cannot be a ground to oppose this transfer petition.

Broadly convenience of the parties may not be relevant for transfer of the cases but in this case when the property is situated within the district of Bikaner and the Court is situated there and the petitioner is residing there and because of peculiar reasons, certain cases have not been transferred to Bikaner Court, this is an exception to that general category. In view of the above, it will be proper to transfer the civil original suit no.1/2000.

Accordingly, this transfer petition is allowed, the civil original suit no.1/2000 pending in the Court of Additional District Judge, Ratangarh is hereby withdrawn and is transferred to the Court of District Judge, Bikaner for deciding the same in accordance with law.

Both the parties are directed to remain present before the Court of District Judge, Bikaner on 23.1.2006.

(PRAKASH TATIA), J.

S.Phophaliya